

DAVID M. MICHAEL (CSB #74031)
EDWARD M. BURCH (CSB # 255470)
Law Offices of David Michael
One Sansome Street, Suite 3500
San Francisco, CA 94104
Telephone: (415) 946-8996
Facsimile: (877) 538-6220
Email: david@davidmichaellaw.com

SCOTT W. GROSS (MI BAR # P43094)
P.O. Box 380257
Clinton Twp., MI 48038
586-416-8000
Email: swglaw@sbcglobal.net

Attorneys for Defendant
WILLIAM RICHARD BAILEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
(HONORABLE CATHY ANN BENCIVENGO)

UNITED STATES OF AMERICA,)	CASE NO.: 3:13-CR-3046-CAB
Plaintiff,)	MATERIALITY OF DEFENDANT'S
)	REMAINING DISCOVERY REQUESTS
vs.)	
WILLIAM RICHARD BAILEY,)	Date: March 12, 2015
)	Time: 9:00 AM
Defendant.)	Courtroom 4C

A. MASTER FILE SOURCE CODE & SYSTEM DOCUMENTATION

In his annual reports to Congress, the Treasury Inspector General for Tax Administration has stated that the IRS Master File executes the Commissioner's procedures for most taxpayer accounts. The FOIA disclosure documents provided to Dr. Bailey show that the IRS posted fictitious computer entries on its Master File in order to create IRC § 6020(b) returns which formed the foundation of the alleged 1998 deficiency and Tax Court proceedings. Such fictitious entries circumvented the source code (computer program) safeguards. The disputed discovery requests refute the Government's arguments that Dr. Bailey committed the crimes charged. This information consists of direct foundational evidence upon which the government bases its allegations in this prosecution. See, *infra*. Without it, Dr. Bailey cannot provide admissible

evidence showing that the computer entries are either inadmissible or that they do not have any relevancy to his tax obligations. There exists no reasonable argument why the information cannot be provided by the government.

1. Source Code & System Documentation Refute "Willfulness" Element

The Government intends to use portions of the earlier tax court proceedings pertaining to tax year 1998 and later actions to prove the "willfulness" element of IRC § 7201:

"The United States hereby provides notice to Defendant of its intent to introduce Defendant's tax court trial as inextricably intertwined, or in the alternative, under Federal Rule of Evidence 404(b). In particular, the statements made by Defendant and the tax court during the bench trial are admissible to prove **motive**, opportunity, **intent**, knowledge, planning, preparation, **willfulness**, and absence of mistake or accident." Doc. 46 at 24:26-25:2 (bold added).

See also Doc. 46 at pp. 3-5 (similar); at p. 19 ("The United States will comply with Fed. R. Crim. P. 16(a)(1)(A) and 16(a)(1)(B). The United States intends to admit Defendant's statements made during the tax court proceedings.")

Discovery of the source code (computer program) and its system documentation will impeach such evidence as having been obtained by the use of false and fictional entries into the Master File computer system used to process Dr. Bailey's 1998 IRS tax information. In this case, Dr. Bailey alleges that the IRS defeated the proper use of the Master File software program by making fictional entries into the system, entries not permitted by the IRS's own procedures. Those entries are relevant in that they created an alleged tax liability not authorized by any statute or rule.

Since the Master File computer program itself cannot validate whether an actual document exists, it must rely on the honest input of the user. If the data entry clerk/user inputs Push Code 036, an input designed to override certain software safeguards, that entry amends the Master File by posting "TC 150" (original tax return code) on the Master File whether or not an actual taxpayer return exists. The computer then opens a new tax module for a non-filer **as if an actual Form 1040A had been filed by the taxpayer** and was being processed by the data entry clerk. The computer has no way of knowing it is being deceived when, in fact, as in this case, there was actually no 1040A filing by the taxpayer. In short, the Master File source code

1 safeguards are “gamed” to allow later assessment and deficiency procedures to take place,
 2 neither of which would be permitted without the fictitious entry.

3 Discovery of the source code will demonstrate that the specific IRS computer procedures
 4 discussed here will not permit deficiency and assessment proceedings to commence against those
 5 individuals who do not file income-tax returns. The Freedom of Information Act (FOIA) files
 6 provided to Dr. Bailey by the IRS in early 2013 show that, on or about August 20, 2005,
 7 Revenue Agent Elsie Addington prepared IRS Form CC AM 424 (*Examination Request Non-
 8 ERCS Users*) (Exhibit A, attached). This form contained Push Code 036 which, when entered
 9 into the IRS computer system, caused computer code TC 150 to be entered onto the Master File,
 10 thereby **falsely indicating to the Master File that Dr. Bailey had filed a Form 1040A income-
 11 tax return for the year 2004 despite the fact that the IRS was aware that Dr. Bailey had
 12 neither filed nor knowingly consented to the preparation of the return for him by the IRS
 13 at that time.**

14 Shortly after entry of the false TC 150, Push Code 036 entered onto Dr. Bailey’s 2004
 15 IRS records the three letters “SFR” (Substitute For Return) just before the false TC 150 code.
 16 See Exhibit B, attached hereto, (at p. 1, 3rd line from bottom.) (FOIA documents indicate that the
 17 IRS used the same false-entry procedure for the years 1998-2003.)

18 In the Tax Court proceedings for 1998, Erin K. Salel, General Attorney for the IRS, on
 19 behalf of Donald L. Korb, IRS Chief Counsel, signed the IRS’s Answer to Dr. Bailey’s Tax
 20 Court Petition by stating that the IRS “[a]dmits that a return under I.R.C. section 6020(b) was
 21 created for the Petitioner.” *Tax Court File*, WB-TAX-CT-FILE-000030 at p. 1, ¶ 1.

22 The false entry of a SFR (Substitute For Return) into the IRS Master File computer
 23 system is routinely used by the IRS not only to defeat the Commissioner’s Master File source
 24 code safeguards, but also to prepare computer transcripts, such as the IMF (Exhibit B, attached
 25 hereto) and TXMODA (Exhibit C, attached hereto) transcripts which are often presented to
 26 taxpayers and the courts in order to cause them to believe that the IRS, under the authority of
 27
 28

1 IRC § 6020(b), had the right to open a tax module for the non-filer for the year in question.¹

2 In a recent case before the D.C. District Court, the Department of Justice argued to the
3 court that an SFR opens the tax module of a non-filer:

4 “The IRS maintains a computerized Master File for each taxpayer. *Hazel v.*
5 *Commissioner*, 95 T.C.M. (CCH) 1528 2008 WL 2095614, at *3 (2008); accord, *Wheeler*
6 *v. Commissioner*, 446 F.App’x 951, 953 (10th Cir. 2011). An IRS individual master file
7 (IMF) is opened by the filing of a tax return. *Ibid.* Under IRC § 6020(b)(1), “[i]f any
8 person fails to make any return required by any internal revenue law . . . , the Secretary
9 shall make such return.” 26 U.S.C. § 6020(b)(1). In such cases, the master file is opened
10 by the entry of the SFR. *Hazel*, 2008 WL 2095614, at *3; accord, *Wheeler*, 446 F.App’x
11 at 953.”

12 *Ellis v. Commissioner*, No. 1:14-cv-00471 (D.D.C. June 2, 2014) *Memorandum of United*
13 *States in Support of Motion to Dismiss* at 5 (underline added).

14 Dr. Bailey’s IRS records refute the Government’s position in *Ellis*. The government is
15 not allowed to create a 1040A return for non-filers. In fact, the government’s own policy does
16 not allow such a procedure. The IRS Revenue Officer Training materials present on the Internet
17 and which have been requested in Dr. Bailey’s discovery motions state clearly:

18 “The IRM restricts the broad delegation shown in figure 23-2 to employment,
19 excise and partnership tax returns because of constitutional issues.” *Revenue*
20 *Officer Training Manual*, Lesson 23 Re: IRC Section 6020(b)
21 <http://www.synapticspark.info/evidence/c10/misc/Lesson23-3.pdf> (referencing
22 IRC § 6020(b) returns) (underline added). See *Affidavit of John Turner*, former
23 IRS Revenue Officer at <http://bit.ly/1KxUb35> ; *Training Course, Table of*
24 *Contents* at <http://bit.ly/1KxUqeC>

25 Discovery of the source code and system documentation used to generate the 1998 IMF
26 and TXMODA transcripts will show that the IRS “gamed” the Commissioner’s computerized
27 procedures with false computer code entries that a 1040A return was filed for Dr. Bailey in order
28 to produce a deficiency for tax year 1998, then used the false deficiency as a jurisdictional
prerequisite to allow the tax court to review the false deficiency, made critical representations to
the tax court, perhaps unknowingly, by informing the court that the IRS has created an IRS §
6020(b) return for Dr. Bailey, and continues this critical error, again, perhaps unknowingly, in
this Court with its intention to use this very false information to convict Dr. Bailey of

¹ See, e.g., Tax Court File, WB-TAX-CT-FILE-000030 at p. 1, ¶ 1. (Government “[a]dmits that a return under I.R.C. section 6020(b) was created for Petitioner”).

1 “willfulness” before the jurors, as noted above.

2 The evidence from the 1998 tax court which the Government intends to use in its case-in-
3 chief to prove the willfulness element of IRC § 7201 was made possible by the false computer
4 entries posted on the Master File by the use of Push Code 036. The false computer entries used
5 to “game” the source code are inextricably intertwined with the tax court proceedings and,
6 therefore, with the willfulness element of the case.

7 Discovery of the source code will provide evidence of the false computer entries and
8 false tax deficiency computations perpetrated against Dr. Bailey in the 1998 deficiency
9 proceedings and thereby allow Dr. Bailey to refute the government’s claim that its willfulness
10 allegations find support in the tax court proceedings. The source code, system documentation,
11 Push Code 036 false entries, the 1998 false deficiency and subsequent tax court proceedings are
12 inextricably intertwined with and provide cumulative impeachment evidence against the
13 Government’s case-in-chief.

14 When, as in 1998-2004, Dr. Bailey had not filed tax returns, the IRS posted fictitious
15 entries on the Master File and in the IRS records assigned to him in order to circumvent the
16 computer checks and thereby open tax modules where none existed previously. The
17 consequence, whether intended or not, was to deceive the taxpayer, the Tax Court, the grand and
18 petit juries and this Court into believing that the IRS was authorized to create a Substitute For
19 Return (SFR) under authority of IRC § 6020(b). In fact, absent the posting of a return **by the**
20 **taxpayer** on the Master File, the computer checks will not permit the initiation of deficiency
21 proceedings necessary for the assessment and collection of income taxes from non-filers.

22 Faced with this important software constraint-safeguard, unknown individuals within the
23 IRS appear to have devised a workaround procedure which was able to mislead the courts,
24 taxpayers and the legal profession. IRS institutional misrepresentation on this issue is buried so
25 deeply in its automated procedures that few realize the misrepresentation and basic flaw exist.

26 Discovery of the Master File source code will demonstrate that the Commissioner’s
27 automated procedures did not allow the deficiency proceedings for the year 1998 to commence
28 until the fictitious computer code “TC 150” had been posted on the Master File to create the

Entity² assigned to Dr. Bailey for the tax year 1998, despite the fact that he had not, in fact, filed a return for that year. In other words, until the Master File computer checks had been circumvented by the fictional posting of computer code "TC 150" (original return) on the Master File annual record/module, no deficiency proceedings could have been initiated legally and no tax court proceedings could have commenced or been authorized by the Commissioner's automated procedures. This omission in the Master File source code is exculpatory.³

Discovery of the source code, when decoded by an expert in computer programs, will reveal the true structure of the Commissioner's procedures for non-filers and will, when read in light of the information provided herein, provide factual evidence to inform Dr. Bailey of the true nature and cause of the accusation against him.

Dr. Bailey's discovery requests here are neither unique nor a matter of first impression to either the government or the IRS. The government has signaled its clear intention to deny both defendant and the Court of this extremely valuable and probative evidence. The Department of Justice Criminal Tax Manual makes that clear:

"Computer data evidence is often introduced in tax cases to show the defendant's filing history, to prove that the defendant did not file returns as required, or to show that the defendant received notices about his tax liabilities. The introduction of the actual Individual Master File (IMF) transcript of account through a witness can open the witness to cross-examination by the defense about every code and piece of information contained in the transcript. In order to avoid this problem, it may be wiser to simply offer IRS computer records at trial in the form of Certificates of Assessments and Payments, certified documents reflecting tax information kept on file at the IRS." Department of Justice, *Criminal Tax Manual*, 40.03[9][c] *Admissibility of IRS Computer Records* [http://www.justice.gov/tax/readingroom/2001ctm/40ctax.htm#40.03\[9\]\[c\]](http://www.justice.gov/tax/readingroom/2001ctm/40ctax.htm#40.03[9][c])

Furthermore, the issues related to Dr. Bailey's 1998 tax year are not confined solely to that year. In fact, the IRS did exactly the same thing to Dr. Bailey's subsequent tax years, at least from 1998 through 2005, prior to the time he filed his 1040 returns for some of those years.

² "Each taxpayer account contains data which describes the taxpayer as an entity." [http://www.irs.gov/uac/Certified-Transcripts-\(CERTS\)](http://www.irs.gov/uac/Certified-Transcripts-(CERTS))

³ There exist many other ways, other than creating a fictional 1040A tax return, for the government to make deficiency claims on non-filers. The only point made here is that the IRS was forbidden to use the methods it used in this case to create a fictional 1040A return for Dr. Bailey for any year from 1998 to 2003 in order to create its own version of a deficiency. For that very reason, the government is obliged to provide the discovery that relates to that issue.

1 The FOIA material he received explicitly admits that.⁴

2 The source code also used to generate the 1998-2004 IMF & TXMODA transcripts will
3 provide the true basis upon which those transcripts were generated and is at the very heart of Dr.
4 Bailey's claim of innocence. Failure of the Government to produce the source code and its
5 system documentation will deprive Dr. Bailey of the basic right to have the prosecutor's case
6 encounter and seek to survive the crucible of meaningful adversarial testing. As the Supreme
7 Court has held:

8
9 [T]he Constitution guarantees criminal defendants a meaningful opportunity to present a
10 complete defense. We break no new ground in observing that an essential component of
11 procedural fairness is an opportunity to be heard. That opportunity would be an empty
12 one if the State were permitted to exclude competent, reliable evidence bearing on the
credibility of a confession when such evidence is central to the defendant's claim of
innocence. In the absence of any valid state justification, exclusion of this kind of
exculpatory evidence deprives a defendant of the basic right to have the prosecutor's case
encounter and survive the crucible of meaningful adversarial testing.

13 *Crane v. Kentucky*, 476 U.S. 683, 690-691 (1986) (internal citations omitted).

14 **B. REMAINING DISPUTED DISCOVERY ITEMS**

- 15
- 16 **1. Transcripts and exhibits from the grand jury convened in this court in or around**
17 **July 2013, of witnesses other than Dr. Bailey who testified in regards to Dr. Bailey**
18 Will show whether the Government provided facts which directly contradict the
19 Commissioner's source code safeguards, such as the 1998 deficiency and Tax Court proceedings.
 - 20 **2. Transcripts and exhibits from the grand jury convened in this court in or around**
21 **July 2013 of general instructions or advisements not related to any specific witness**
22 Same as immediately above.
 - 23 **3. All reports of government agents, all recorded communications between Dr. Bailey**
24 **and Receiver Robert Moser, all communications between government agents and**
25 **Receiver Moser, and all other documents and/or reports of the government, not filed**
26 **in the case (excluding attorney work product material) which are in any way related**
to the "Warehouse Bank" case, U.S v. Anthony L. Hargis, individually and dba

27 ⁴ For conservation of space, the FOIA documents are not attached hereto. The government will
28 not dispute their existence or their contents. See, File 672-file-Bailey.pdf (pages 98-110 of IRS
FOIA Compliance. IMF MCC Transcript-Complete).

Anthony L. Hargis & Co., Case No. SACV 04-00273 DOC (ANx.)(CD Cal.)

Needed for impeachment of Government witnesses.

- 4. Documents in the government's possession showing that the contracting trusts and bailment trusts were identified in commerce by a number issued by the Department of the Treasury/IRS which designated them as having no filing requirements (in fact the number indicated that they were common law entities)**

See FOIA document 574 file Bailey.pdf at p. 199, where Revenue Agent Addington and IRS Area Counsel Erin Salel, the IRS attorney in the Tax Court trial, discuss a letter in Ms. Salel's possession, verified to be true by Ms. Bettye Dennery, scanned by Ms. Salel and emailed to Ms. Addington, and appears to confirm that the Health Net UBO was not required to file a return. Ms. Salel "said she had received a letter from B sent to him by IRS / Philadelphia providing Health Net UBO with an EIN. . . . The letter was not signed, nor did it indicate the tax returns required to be filed." *Id.* Entry 9/17/2007. ["B" appears to mean "Bailey.]"

- 5. Documents reflecting and copies of contracts without regard to any limitation the government may place on the term including defining the "trusts" as only/purely statutory**

Will support Dr. Bailey's good-faith use of Health Net UBO as a valid business entity and, coupled with the IRS EIN number and letter, will support his good-faith belief that the UBO was not required to file returns. Refutes willfulness.

- 6. Memorialization of agents' interviews with Dr. Dunnum reflecting that he supplied contract information and admonished agents in conversation and in writing not to conflate Dr. Bailey with the contracting trust.**

Refutes willfulness and demonstrates that Dr. Bailey, in good faith, sought competent advice on his use of the trust.

- 7. IRC § 6020(b) Assessment Case File (Tax Years 1998-present)**

Shows that 1998 Deficiency & Tax Court proceeding were obtained by computer manipulation & refutes the validity of both. Refutes the Government's use and foundation for entering such items into the criminal case.

8. Individual Master File (IMF-Specific) for 1998

The Government has provided the IMF MCC Transcript-Complete but not the IMF MCC Transcript-Specific. The “Specific” transcript provides the evidence Dr. Bailey relies upon in framing his defense; the “Complete” transcript has “scrubbed” important entries. The “Specific” shows the entries manipulated to evade the source code safeguards and thereby obtain the 1998 deficiency & Tax Court proceedings. Refutes the Government’s use and foundation for entering such items into the criminal case. ((IMF & TXMODA must be read together)

9. TXMODA (Tax Module A) for 1998

Same as IMF Specific immediately above. TXMODA is even more complete than the IMF Specific.

10. Every Deficiency Made Pertaining to Defendant

Will show that the process used by Special Agent Morgan to compute deficiencies illegally circumvented the Commissioner’s safeguards and were not authorized. Refutes tax deficiency element of IRC § 7201.

11. Form 13496 for Tax Years 1998-present

Shows that 1998 Deficiency & Tax Court proceeding were obtained by illegal computer manipulation & refutes the validity of both. Refutes the Government’s use and foundation for entering such items into the criminal case.

12. All Training Materials re: Items of Income “Excluded by Law”

As shown here, discovery requests 12-15 support Dr. Bailey’s lack of willfulness, which he shared with IRS Agents Addington & Weber on Sept. 20, 2006, based on his good-faith belief that he had no taxable income which required him to file tax returns.

IRC § 1 (*Tax imposed*) imposes a graduated tax on the “taxable income” of individuals listed in the section. Obviously, the Government will argue that Dr. Bailey falls within one or more of the classes of “individuals” listed therein.

A number of provisions within the IRC address the determination and computation of “taxable income.” Regulations pertaining to several sections note that certain items of income listed may be “excluded by law,” 26 CFR §§ 1.61-1(a) & 1.61-2(a), or may otherwise constitute

1 “income not taxable by the Federal Government under the Constitution.” 26 CFR § 1.312-6(b).
 2 Dr. Bailey has been unable to discover a list or lists of such “excluded” or “non-taxable” income,
 3 but in good faith seeks them in these discovery requests. Dr. Bailey spoke of “excluded income”
 4 with Ms. Addington and her associate, Revenue Officer A. Weber, on September 20, 2006. See
 5 FOIA File 574 at p. 226.

6 The requested discovery supports Dr. Bailey’s “good-faith belief” and “willfulness”
 7 discussion with IRS employees Elsie Addington and A. Weber on Sept. 20, 2006:

8 WRB: As I said, I have no knowledge that would lead me to a belief that I have
 9 any taxable income. My understanding is that Section 1 of the code imposes a tax on
 10 taxable income, and it doesn’t impose a tax just on income, but on a specific thing called
 11 taxable income; that there’s something called excluded income and that there are a variety
 12 of distinctions that have to be made. Because I look at those issues, and I have first hand
 13 knowledge of those situations, all the knowledge that I have would suggest that I don’t
 have a liability that would require the filing of a return for taxable income. That’s
 according to the United States Code. The Constitution . . . [FOIA Disclosure document
 labeled 574 file Bailey.pdf at p. 226 of the pdf file and p. 8 of the transcript of the
 discussion] (underline and italics added)

14 From his transparent discussion with Revenue Agent Elsie Addington and IRS employee
 15 A. Weber, Dr. Bailey identified his good-faith belief that both the tax Code and the Constitution
 16 required that “something called excluded income” be removed from “taxable income.” Based on
 17 his understanding, he stated that he did not have a belief that he had “any taxable income” nor
 18 that he had “a liability that would require the filing of a return for taxable income. That’s
 19 according to the United States Code. The Constitution . . .”

20 As identified above, the tax regulations are clear that certain, unidentified items of
 21 income are either “excluded by law” from taxable income or are not taxable by the Federal
 22 Government under the Constitution or both, but none of such items is listed either in the Code,
 23 the Tax Regulations, or any publication which Dr. Bailey has ever been able to discover.

24 If there is such a list, Dr. Bailey needs it to prepare his “good-faith belief” and
 25 “willfulness” defense. If discovery shows that no such list exists, the absence of such a list will
 26 support Dr. Bailey’s good-faith understanding and belief communicated to the two IRS
 27 employees in this discussion.

28 Discovery will show that, because neither Ms. Addington nor A. Weber had ever

received training in what items of income are “excluded by law” from “gross income,” see 26 CFR §§ 1.61-1(a) & 1.61-2(a), and, therefore, from “taxable income,” they were unable to carry on a meaningful and informative discussion with Dr. Bailey and, if his beliefs were found to be erroneous, point out his errors and enable him to avoid what the IRS considered to be civil and criminal offenses.

13. A List of All Items of Income “Excluded by Law”

Will demonstrate to the jury that the IRS completely ignored such items in its deficiency computations, because there is no such list. The FOIA discovery produced shows that Dr. Bailey raised the issue of items of income excluded by law in a discussion with IRS agents but received no response from any of them. This goes directly to “willfulness.”

14. All Training Materials re: Non-Taxable Items under Constitution

Shows that the IRS employees who computed the deficiencies were not trained in and therefore failed to consider items of “income not taxable by the Federal Government under the Constitution” in their computations, rendering the deficiencies arbitrary and capricious, as well as lacking in evidentiary foundation. See 26 CFR § 1.312-6(b).

15. A list of All Items of Income Not Taxable under the Constitution

Will demonstrate to the jury that the IRS completely ignored such items in its deficiency computations, because there is no such list. The FOIA discovery produced shows that Dr. Bailey raised the issue of items of income excluded by law in a discussion with IRS agents but received no response from any of them. This goes directly to “willfulness.”

16. Copies of “IRC § 6020(b) Revenue Officer Training” Materials

17. Records in Any and Every Format” Pertaining to Revenue Officer Training Course

18. Revenue Officer Training Manual, Lesson 23

As shown here, discovery requests 16-18 will show that the IRS taught its employees that the Commissioner’s delegation orders do not allow IRS employees to prepare IRC § 6020(b) individual income-tax returns because of “constitutional issues,” and will enable the Defense to impeach the testimony of Government witnesses and exhibits re: 1998 deficiency and Tax Court proceedings, both of which were based on IRC § 6020(b) returns. *Affidavit of John Turner,*

former IRS Revenue Officer at <http://bit.ly/1KxUb35> ; *Training Course, Table of Contents* at <http://bit.ly/1KxUqeC>

In the Tax Court proceedings for 1998, Erin K. Salel, General Attorney for the IRS, on behalf of Donald L. Korb, IRS Chief Counsel, signed the IRS's Answer to Dr. Bailey's Tax Court Petition by stating that the IRS "[a]dmits that a return under I.R.C. section 6020(b) was created for the Petitioner." *Tax Court File*, WB-TAX-CT-FILE-000030 at p. 1, ¶ 1.

The FOIA documents directly contradict Ms. Salel's IRC § 6020(b) admission, but, instead, show that the source code safeguards did not allow the IRS to create an IRC § 6020(b) return for Dr. Bailey. Instead, false entry of a computer code for a Form 1040A return which Dr. Bailey had not filed was posted on the Master File and thereby evaded the source code safeguards meant to prevent the IRS from creating such IRC § 6020(b) returns.

19. Criteria Used by IRS to Ensure Compliance with *Murray's Lessee*

20. Individual Overseeing Procedures re: *Murray's Lessee*

21. Individual Overseeing Computers re: *Murray's Lessee*

Items 19-21 will enable Dr. Bailey to demonstrate to the Court that the IRS violated the source code safeguards designed to ensure that all IRS procedures comply with *Murray's Lessee* due process standards. If the Court rules for Dr. Bailey on his procedural challenge, he will then move to exclude the deficiency computations from the criminal trial.

22. Any and All Delegation Orders re: Form 1040 and IRC § 6020(b)

Will show that the entries on Dr. Bailey's IMF & TXMODA transcripts were manipulated to evade the source code safeguards and obtain the 1998 deficiency & Tax Court proceedings which the untainted source code will not permit. Refutes the Government's use and foundation for entering the 1998 deficiency & Tax Court proceedings into the criminal case.

Respectfully submitted,

Dated: 14 February 2015

s/David M. Michael
DAVID M. MICHAEL
Attorney for Defendant
WILLIAM RICHARD BAILEY

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CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that, on 14 February 2015, I electronically filed the foregoing with the Clerk of the Court for the Southern District of California by using the CM/ECF system. I certify that all participants in the case are, or have applied to be, registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/David M. Michael

DAVID M. MICHAEL

Attorney for Defendant WILLIAM RICHARD BAILEY

EXHIBIT A

CC AM 424

Examination Request Non-ERCS Users

Reference - IRM 4.4.21 and 2.8.2

Source Code	PBC	SBC	EGC	MFY	Status Code	Return Needed No Return/Yes F554B & labels Y/N No Return/No F554B/No labels Y/N Circle One * INPUT *	Blank INPUT *	Project Code
2 4	2 1 4	8 7 7 0 0	1 8 6	2 3 0	1 0			0 1 6 1
Name Control or Check Digit					Aging Reason	Push Code/Spec. Msg. Code	Statute Date	Tracking Code
2 6 8 - 5 0 - 8 2 8 4					B A I L	0 3 6	0 4 E E 2 0 0 3	9 0 4 8
Taxpayer's Name (Print)					Tax Period		Activity Code	Amount Claimed (Dollars only) Enter digits left to right
WILLIAM R BAILEY (LABEL HERE)					1 9 9 9 1 2		5 3 1	C
Taxpayer's Address					1 9 9 9 1 2		5 3 1	C
12500 OAK KNOLL ROAD APT 6, POWAY, CA 92064					2 0 0 4 1 2		5 3 1	C
Reason for Request					2 0 0 4 1 2		5 3 1	C
RELATED YEAR TO NON-FILER								C
Requester/Date/Organization					Y Y Y Y M M			C
E ADDINGTON/8-20-2005/GRP 1862 SA/S/					Y Y Y Y M M			C
Approved By/Date					Y Y Y Y M M			C
Record on File					Y Y Y Y M M			C
Tax Period	Source	PBC	EGC/Appl. Code	Status	Control Number	Date	Comments	
Y Y Y Y M M						M M D D Y Y Y Y		
Y Y Y Y M M						M M D D Y Y Y Y		
TC 424 Reject Date:					Follow-up Action		Operator/Date	
Attach print of error msg								

Form 5345-B

(Rev. 1-2005)

Sheet 1 of 2

Catalog No. 21488K

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Department of the Treasury-Internal Revenue Service

(Attach File Label Here)			Priority:		
Assigned To (Name of Examiner)		Date Assigned:	Date Assigned To Group		
Date Closed:	Closed To:		Key Case		
			EIN/SSN Number:		
			Status:		
			Date Entered:		
			835 Due:		
			In File:		
			Consent Mailed:		
			Consent Secured or Denied:		
Ref'd From Tech Support:			Ref'd To Tech Support:		
			Transferred To:		
			Date:		
Ref'd From Case Processing:			Ref'd To Case Processing:		
			Group:		
			Area:		
			Reason:		
Group Control Card					

Form 5345-B (Rev. 1-2005) Sheet 2 of 2

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Department of the Treasury - Internal Revenue Service

EXHIBIT B

SC MFTRA

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000071

PAGE NO-0001

IMF MCC TRANSCRIPT-SPECIFIC

EMP NO 79-260-80261

ACCOUNT NO 268-50-8284 10-22-2013
 NAME CONT- BAIL CYCLE-20134205

 FOR-7926080261 BY-7926080261 ON-10222013 TYP-S-30-200412
 TIME-11:12 SRC-1
 PROCESSED ON-295
 REQUESTED TAX MODULE FOUND ON MF
 DROPPED ENTITY DATA IS AVAILABLE
 USE MFTRA REQUEST-TYPE -E- HARDCOPY

2011 1 WILLIAM R BAILEY
 14419 CORTE MOREA BODC-WI BODCLC-
 200918 SAN DIEGO CA 92129-3812-193
 ULC-33 AO-15 CLC- SEAO- PRIOR NAME CONTROL- FZ> -Z
 YEAR REMOVED- ENT EXT CYC-201342 MFR-01 VAL-1 IRA- CAF-
 CNC FYM-12 SCS- CRINV-Z 130- CAU
 RPTR- PMF- SHEL- BNKRPT- BLIC-
 ACCRETION- FMS-0 PDC-00 MIN SE-
 JUST- IRS EMPL- FED EMPL- LII-0
 ID THEFT 50X CD- ID THEFT 52X CD-
 DAILY PROCESSING IND-0 VODV IND-0
 IP PIN IND-0

1998 1 WILLIAM BAILEY
 2003 1 WILLIAM R BAILEY
 2008 3 WILLIAM R BAILEY
 PTNL WILLIAM R BAILEY

(b)(3)/26 USC 6103
 (b)(7)(C)

LSTRET-2009 ME- 661 CND-R FLC-00 201021

 * TAX PERIOD 30 200412 * REASON CD- MOD EXT CYC-201342

 FS-1 TFRP- CRINV-Z LIEN- 29210-888-00000-5 CAF- FZ> -ZLR
 TDA COPYS- TDI COPYS-
 INT TOLERANCE- MATH INCREASE- HISTORICAL DO-33 BWNC- BWI-
 MF MOD BAL- 0.00
 ACCRUED INTEREST- 0.00 11042013 CS-
 ACCRUED PENALTY- 0.00 11042013 RSED-04152008
 FMS- IA CD-0 ARDI-0 AS-00000000
 2% DT OFF IND-0
 SFR 150 09192005 0.00 200536
 RET RCVD DT-08312005 29210-888-00000-5 CD- SRC-0
 PREPARE IND-0 PREPARE TIN-

*****CONTINUED ON NEXT PAGE*****

SC MFTRA

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000072

PAGE NO-0002 TAX PERIOD 30 200412*CONTINUED

IMF MCC TRANSCRIPT-SPECIFIC

EMP NO 79-260-80261

ACCOUNT NO 268-50-8284

10-22-2013

NAME CONT- BAIL

CYCLE-20134205

TAX PER T/P-	0.00
F/C- AGI-	0.00
FOREIGN- FARM- MF P-	
XRF- AEIC-	0.00
NAI- EXMPT-01 NRGY-	0.00
LTEX- TAXABLE INC-	0.00
PENALTY SUPP-1000 SET-	0.00
TOTAL WAGES-	0.00
MDP- TOTAL INC TX-	0.00
EST TAX BASE-	0.00
PR YR BASE-	0.00
SHORT YR CD- ES FORGIVENESS %-	0
USVI-0	
1ST SE-	0.00
2ND SE-	0.00
ACCT TYPE-	
EFT-0	
F8615- UNAPPLD CR ELECT-	
ES TAX PAYMENT-	0.00
DIR DEP REJ RSN CD-00	
PUTI- 0 SUTI-	0
PMEI- 0 SMEI-	0
PMTI- 0 SMTI-	0

425 08312005-----

20053608 29277-243-20000-5
 SOURCE-24 ORG-1835 PROJ-161 RET REQ-0
 PBC-214

570 09192005-----

20053608 29210-888-00000-5
 COLCLOS-12 CYCLES-06

420 09082005-----

20053708 29277-251-00000-5
 AIMS SC-24 PBC-207 SBC-60700 EGC-1835

563 06022009-----

20092308 29277-153-77500-9

914 06292010-----

20102708 89277-582-30072-0

971 03122012-----

20120905 89277-447-30094-2
 XREF- 971 CD-805
 X-MFT-00 MEMO- FTD ALRT-0

560 02262013-----

20130905 29277-057-77500-3
 ASER-09182014 CYCLES-06

EXHIBIT C

Station Name: LGN001WA4089231 Date: 2/1/2013 Time: 8:37:37 AM

TXMODA268-50-8284 MFT>30 TX-PRD>200412 PLN-NUM> NM-CTRL>BAIL *CAU*
29210-888-00000-5<DLN BOD-CD>WI

SC-ST> MOD-BAL> 0.00 MF-XTRCT-CYC>20130405 SC-REASON-CD>KK
MF-ST> MOD-BAL> 0.00

TODAYS-DT>02/01/2013
PRIMARY-LOC>3315
CL-LOC>27 PDC-IND>00
AIMS-CD>1 CL-ASGMT>00000000
ASED> FRZ> -ZLR
CSED> INTL>Z-Z
RSED>04152008

CS-CTRL-INFO>NO CASE CONTROLS

-----POSTED RETURN INFORMATION-----

RET-RCVD-DT>08312005
FS>1 NUM-EXEMPT>01

-----RETURN TRANSACTION-----

T/C	POSTED	TRANS-AMOUNT	CYC	T	DLN
150	09192005	0.00	20053608		29210-888-00000-5

SFR

-----POSTED TRANSACTIONS SECTION-----

T/C	POSTED	TRANS-AMOUNT	CYC-DAY	T	DLN
424R	08312005	0.00	20053508		29277-243-20000-5

SOURCE-CD>24

SPCL-PROJ>0161

PBC>214

SBC>60700

EGC>1835

PUSH-CD>036

Employee #2769251034 Page 001 of 002 PAGE 002

8PR

ret filed 9/18/08

9/18/11

3 yr

6 yr F10428 9/18/14